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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,039	02/26/2004	Gary P. Mousseau	30889-2005	2929
33721	7590	04/21/2006	EXAMINER IWUCHUKWU, EMEKA DERRICK	
TORYS LLP 79 WELLINGTON ST. WEST SUITE 3000 TORONTO, ON M5K 1N2 CANADA			ART UNIT 2617	PAPER NUMBER

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/786,039	MOUSSEAU, GARY P.	
	Examiner	Art Unit	
	Emeka D. Iwuchukwu	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 03 March 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6,9-14 and 19-25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6,9-14 and 19-25 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Response to Amendment

2. This Office Action is in response to the amendment received on 03/03/2006.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 22** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "said messaging application" in line 4. There is insufficient antecedent basis for this limitation in the claim. The office shall interpret the claim to read "a messaging application".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1,3,6,9,10,12,19,20&23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by 2004/0203644 A1 to Anders et al. (*hereinafter Anders*).

With respect to claims 1,3,9,10,12,20,24&25, Anders teaches an electronic device (e.g. cell phone, paragraph 23), a method for modifying its behavior and a computer readable medium containing a plurality of programming instructions for the electronic device (paragraph 39) for receiving live communications comprising:

a microcomputer configured to execute an application for scheduling a calendar event; said calendar event having a notification profile associated therewith; said microcomputer further configured to process said notification profile to determine whether to accept a live communication selected from the group of a voice telephone call, an instant message service message, a push-to-talk call or an email (paragraph 24) during said scheduled calendar event (paragraphs 21-25); said microcomputer further arranged to execute a separate notification profile settings application to enable a user to associate with said calendar event a notification criterion comprising a string of characters (Fig 5); said notification criterion indicative of said notification profile associated with said calendar event; said notification profile being defined within said separate notification profile settings application (paragraphs 21,25,27; Fig 5).

With respect to claim 6, Anders teaches the device of claim 1, wherein said notification profile for said scheduled calendar event is additionally based on at least one criterion that is associated with said live communication (paragraph 27).

With respect to claims 19&23, Anders teaches the device and method of claims 1&10, including executing the separate notification profile settings application so as to select as said notification criterion for the scheduled calendar event one of a plurality f notification criteria,

said plurality of criteria being indicative of different, respective notification profiles (paragraphs 25-28; Fig 5).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 2,4,11,13,14&21 are rejected under 35 U.S.C. 103(a) as being unpatentable over 2004/0203644 A1 to Anders et al. (*hereinafter Anders*) in view of U.S. Patent No. 6,393,272 to Cannon et al. (*hereinafter Cannon*).

With respect to claims 2,4,11&13, Anders teaches the device and method of claims 1&10. Anders fails to expressly disclose if said live communication is not accepted during said scheduled calendar event then said communication is directed to a message application.

In the same field of endeavor, Cannon teaches a similar device and method wherein if a live communication is not accepted during a scheduled calendar event then said communication is directed to a voicemail application (Col 3 Lines 44-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to direct the unanswered communication to a voicemail application so that a caller can leave important messages for the called party to retrieve after the scheduled event.

With respect to claim 14, Anders in view of Cannon teaches the method of claim 11, wherein said notification profile for said scheduled calendar event is additionally determined from a criterion that is associated with said live communication (Anders, paragraph 27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to additionally base the notification profile for said scheduled calendar event on criterion associated with said live communication so that if the call is an emergency the called party may be more intrusively notified of the communication.

With respect to claim 21, Anders teaches the method of claim 10, including the steps of: determining in a messaging application a time of receipt of said live communication; determining in a calendar application whether said time of receipt is during the scheduled calendar event; if said time of receipt is during said calendar event, then examining said calendar event for the criterion indicative of the notification profile for indicating how said communication is to be routed (paragraphs 21-26); and instructing said messaging application to accept said communication as a live communication if said calendar event so designates (paragraph 27). Anders fails to expressly disclose instructing said messaging application to route said communication to a message service if said calendar event notification profile designates routing to said message service.

In the same field of endeavor, Cannon teaches a similar method wherein the messaging application routes the communication to a message service if said calendar event notification designates routing to said message service (Col 3 Lines 44-51,57-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to direct the unanswered communication to a voicemail application so that a caller can leave important messages for the called party to retrieve after the scheduled event.

10. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over 2004/0203644 A1 to Anders et al. (*hereinafter Anders*) in view of U.S. Patent No. 6,393,272 to Cannon et al. (*hereinafter Cannon*) further in view of U.S. Patent Pub 2002/0115429 A1 to Deluca et al. (*hereinafter Deluca*).

Anders in view of Cannon teaches the device of claim 4. The combination fails to specifically mention said microcomputer is operable to execute said voicemail application and said electronic device includes a storage device for storing said communication when said communication is directed to said voicemail application.

In the same field of endeavor, Deluca teaches a similar device wherein said microcomputer is operable to execute said voicemail application and said electronic device includes a storage device for storing said communication when said communication is directed to said voicemail application (paragraph 6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to store the voicemail locally for quicker access to the voicemail.

11. **Claim 22** is rejected under 35 U.S.C. 103(a) as being unpatentable over 2004/0203644 A1 to Anders et al. (*hereinafter Anders*).

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Anders teaches the method of claim 10. Anders fails to expressly disclose the method includes the steps of if said time of receipt is not during a calendar event then examining the notification profile settings application to determine how said communication is to be routed, however the Examiner takes official notice that it was well known in the art at the time the invention was made to instruct a messaging application to route a communication to a message service if a profile settings application designates routing to said message application or instructing said messaging application to accept said communication as a live communication if said profile settings application so designates.

It would have been obvious to perform these steps at the time the invention was made so that a call would go to voicemail when a phone was busy, out of a service area or off and alert the user during normal operation.

Response to Arguments

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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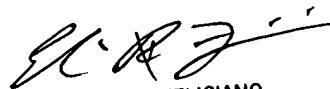
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emeka D. Iwuchukwu whose telephone number is (571) 272-5512. The examiner can normally be reached on M-F (9AM - 5.30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EDI



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PRIMARY EXAMINER